

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION

ANIMAS-LA PLATA PROJECT
COLORADO RIVER STORAGE PROJECT

AMENDATORY FUNDING AGREEMENT AND REPAYMENT CONTRACT BETWEEN
THE UNITED STATES AND THE SAN JUAN WATER COMMISSION, NEW MEXICO

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THIS CONTRACT, made this ____ day of _____, **2001**~~19~~, pursuant to the Act of Congress approved June 17, 1902 (32 Stat. 388), and acts amendatory thereof or supplementary thereto, all of which acts are commonly known and referred to as the Federal Reclamation Laws, between the UNITED STATES OF AMERICA, hereinafter referred to as the United States, represented by the officer executing this contract, and the SAN JUAN WATER COMMISSION, hereinafter called the Commission, located in San Juan County, New Mexico, a commission duly organized and existing pursuant to the laws of San Juan County and the State of New Mexico, acting through **their representatives** ~~the Chairman~~.

WITNESSETH, That:

WHEREAS, the following statements are made in explanation:

(a) The Act of Congress approved April 11, 1956 (70 Stat. 105), authorized the planning and investigation of the Animas-La Plata Project as a participating project of the Colorado River Storage Project; subsequently, the construction, operation, and maintenance of the Animas-La Plata Project was authorized by Title V of the Colorado River Basin Project Act of September 30, 1968 (82 Stat. 896), and the United States has investigated, planned, and proposes to construct said Animas-La Plata Project for the storage, diversion, salvage, and distribution of the waters of the Animas River and the La Plata River, which Project has among its authorized purposes the furnishing of water for irrigation, municipal, industrial, domestic, and other beneficial purposes. **The water rights settlement purposes of the Project were authorized by the Colorado Ute Indian Water Rights Settlement Act of 1988 (Public Law 100-585) as amended by the Colorado Ute Settlement Act Amendments of 2000 (Public Law 106-554).**

(b) The Colorado Ute Settlement Act Amendments authorize the construction of a reservoir, pumping plant, inlet conduit, and appurtenant facilities with sufficient capacity to divert and store water from the Animas River for an average annual depletion of 57,100 acre feet of water to be used for a municipal and industrial water supply;

(cb) The San Juan Water Commission desires to **amend its Contract No. 0-07-40-R1080 dated January 8, 1990** with the United States for a municipal and industrial water supply pursuant to the terms and conditions of **Public Law 106-554 and** the Joint Powers Agreement dated March 5, 1986, and to pay **its capital obligation through an up-front payment** for **its proportional share of those** Project Works necessary to **store and** deliver **its project** water and for the perpetual right to the **storage and** use of such water in New Mexico as hereinafter provided.

NOW, THEREFORE, in consideration of the mutual and dependent covenants herein contained, the parties hereto agree as follows **that this amendatory contract hereby amends, supercedes, and modifies Contract No. 0-07-40-R1080 dated January 8, 1990 to read as follows:**

GENERAL DEFINITIONS

1. Where used in this contract:

(a) "United States" or "Contracting Officer" or either of them means the Secretary of the United States Department of the Interior or his duly authorized representative.

(b) "Commission" or "Contractor" means the San Juan Water Commission, San Juan County, New Mexico, created by the Joint Powers Agreement dated March 5, 1986.

(c) "Project" means the Animas-La Plata Project, a participating Project of the Colorado River Storage Project.

(d) "Project Operator" means either the United States or the Animas-La Plata Water Conservancy District of Colorado, whichever is **entity** operating the Project Works.

(e) "Project Works" means all works or facilities to be constructed under Phase 1 of the Project, together with lands and rights-of-way for such works, as described in Article 2.

~~(f) "Project Water" means all water made available from, through, or by means of Project Works.~~

1 (f) "Project ~~Municipal and Industrial~~ Water" means **all Project municipal and**
2 **industrial water made available from, through, or by means of Project Works and** furnished
3 to the Commission for use by municipalities, organizations which provide water for rural
4 domestic water users, industrial establishments, commercial recreation users, commercial
5 operations, and other miscellaneous uses as the Commission sees fit.

6 (g) "Cost Sharing Agreement" refers to the "Agreement in Principle Concerning
7 the Colorado Ute Indian Water Rights Settlement and Binding Agreement for Animas-La Plata
8 Project Cost Sharing" dated June 30, 1986, between the United States, the State of Colorado,
9 certain political subdivisions of the States of Colorado and New Mexico, the Ute Mountain Ute
10 Tribe, and the Southern Ute Indian Tribe, **as amended.**

11 (h) "Water Rights Settlement Agreement" refers to the "Colorado Ute Indian
12 Water Rights Final Settlement Agreement" dated December 10, 1986 among the United States,
13 the State of Colorado, the Ute Mountain Ute Tribe, the Southern Ute Indian Tribe, and the
14 additional governmental and private entities signatory thereto.

15 **Revise** (i) "Administrative Costs" are all costs which are not directly identified to the
16 construction of specific Project Works. These costs are incurred centrally and charged to the
17 Project on the basis of the utilization of Reclamation labor. The limitation in Article 87(f) shall
18 not apply to costs directly identified to the construction of Project Works such as right-of-way
19 appraisals, land acquisition, designs, inspections, and payments to Contractors.

20 (j) "**Consultation**" means the United States ~~and Commission~~ shall **notify and**
21 confer **with the Contractor** regarding significant decisions **pertaining to this contract.** ~~that~~
22 ~~may affect the design, construction, allocation of costs, or operation and maintenance of Project~~
23 ~~Works. Every reasonable effort will be made to reach consensus decisions. In the event that no~~
24 ~~consensus can~~**not** be reached and the United States makes a decision, ~~Commission~~ appeals are
25 available **to the extent allowed under applicable laws.** ~~under the Administrative Procedures~~
26 ~~Act (5 U.S.C. Sections 500 et seq. and 701 et. seq.).~~

27 (k) "San Juan River System" means the San Juan River and its tributaries.

28 (l) "~~Phase One~~ Operation and Maintenance Facilities" means those facilities
29 necessary to support operations and maintenance work, for example operation and maintenance

headquarters, office space, shop for repair of equipment, storage place for supplies, and equipment yard.

(m) "Repayment Obligation" means final reimbursable construction costs exceeding \$12,800,000 allocated to municipal and industrial uses associated with the construction of ~~Phase One~~ Project Works.

(n) "Relinquished Water" means that water available to the Secretary for allocation to other Project purposes if the Commission elects not to enter into a new agreement for any additional repayment established in the final cost allocation as provided in Section 6(a)(3)(B) of Public Law 106-554.

PROJECT WORKS

2. Subject to the terms and conditions of this and other applicable contracts related to this Project, the United States will construct the following ~~Phase One~~ Project Works, acquire lands, and provide certain moveable property and equipment to the Project Operator needed for Project operation as, in the opinion of the United States, are necessary for Project purposes, without being limited by enumeration and within the limit of funds available by the Congress and the contracting parties.

(a) The Commission will share only in the allocable costs of the ~~joint Project Works up to the cost of their single purpose alternative. The joint Project Works,~~ **which** are presently identified as the following:

(1) Ridges Basin Dam and Reservoir, the main storage facility for the Project, will be located on Basin Creek in Ridges Basin approximately 3 miles southwest of Durango, Colorado. The reservoir will have an ~~initial~~ capacity of approximately **120,000** ~~280,000~~ acre-feet.

(2) Durango Pumping Plant and Power Transmission Facilities will be located adjacent to the Animas River and will pump Project Water from the Animas River to Ridges Basin Reservoir and to other Project Water users.

(3) Ridges Basin Inlet Conduit will extend from the Durango Pumping Plant to Ridges Basin Reservoir. ~~The Conduit will be capable of reversing flow from Ridges Basin Reservoir to the Durango Pumping Plant.~~

1 (4) ~~Phase One~~ Operation and Maintenance Facilities will be constructed as
2 determined necessary by the United States, after **consultation** with the **project operator, when**
3 **the United is not operating the Project Works** Animas-La Plata Water Conservancy District,
4 for the required operation and maintenance of ~~Phase One~~ Project Works. **Needed ??**

5 (5) ~~Ridges Basin Pumping Plant and Power Transmission Facilities will~~
6 ~~pump water from Ridges Basin Reservoir into the Dry Side Canal and to other Project Water~~
7 ~~users. Ridges Basin Pumping Plant will be located on the western edge of Ridges Basin~~
8 ~~Reservoir.~~

9 (6) ~~Long Hollow Tunnel will be located on the Dry Side Canal about 3.1~~
10 ~~miles from the head of the canal. The tunnel will be approximately 3.2 miles long.~~

11 (7) ~~Dry Side Canal Phase One will extend from Ridges Basin Pumping~~
12 ~~Plant to the Dry Side Gravity Lateral. The canal will be approximately 22 miles long.~~

13 (b) ~~In keeping with the purposes of the Project, the United States and the~~
14 ~~Commission shall **consult** and may change the location or size of Project Works, or may~~
15 ~~eliminate works or add works to those described above. Nothing contained herein shall be~~
16 ~~construed to indicate the order in which the works described in subarticle (a) hereof will be~~
17 ~~constructed or acquired.~~

18 (bc) The United States, after **consultation** with the Commission, shall have the
19 right at any time ~~after construction~~ to increase the capacity of the Project Works or any unit or
20 feature thereof for other than project purposes without additional capital or operation and
21 maintenance cost to the Commission; Provided, That the Commission's use of Project Water
22 shall not be impaired thereby. The right of use of such increased capacity is reserved to the
23 United States.

24 (cd) Any additions, changes to, or operation of Project Works or changes in use of
25 water from that stated in the Animas-La Plata Final **Supplemental Environmental Impact**
26 **Statement (FSEIS)** dated July ~~2000~~^{1, 1980}, will be subject to further compliance with the
27 National Environmental Policy Act and must be approved by the Secretary of the Interior.
28 Construction and operation of the Project will be in accordance with the Environmental
29 Commitment Plan ~~dated February 4, 1987~~ **or Chapter 5 of the FSEIS.**

1 ~~(e) The United States will be responsible for taking any remedial measures required~~
2 ~~to protect or restore the quality of Project Water delivered to the Commission under this contract~~
3 ~~resulting from design or construction deficiencies with respect to Project Works constructed by~~
4 ~~the United States, as determined by the United States after consultation with the Commission.~~

5
6 CONDITIONS PRECEDENT TO CONSTRUCTION

7 3. The United States shall be under no obligation to commence, or having commenced,
8 to continue construction of Project Works necessary for the delivery of Project Water under this
9 contract until:

10 (a) A proposed consent decree is prepared by the Colorado parties that signed the
11 Cost Sharing Agreement and the Water Rights Agreement, the United States, the Southern Ute
12 Indian Tribe, and the Ute Mountain Ute Tribe providing for a comprehensive quantification and
13 determination of the reserved water right claims of the Tribes and providing for the uniform and
14 cooperative administration of the decreed waters. This proposed consent decree shall be
15 submitted to the District Court for Water Division No. 7, State of Colorado, and duly issued by
16 the court.

17 (b) Adequate water rights for the Project are obtained and any conflicts between
18 private water rights and Project Water rights are resolved to the satisfaction of the United States.

19 ~~(c) The Commission has demonstrated the legal and financial capability to make~~
20 ~~the contributions and payments required by this document by demonstrating that it is a legal~~
21 ~~entity under state law, that has taxing authority either on its own or in conjunction with others,~~
22 ~~and that contracting parties have the capacity to put water to beneficial use under New Mexico~~
23 ~~law.~~

24 **(c) The June 30, 1986 Cost Sharing Agreement is amended by all parties to**
25 **that agreement in order to make that agreement consistent with Public Law 106-554.**

26 **(d) Any non-Tribal entity that desires to pay its capital obligations for its**
27 **municipal and industrial water prior to construction must enter into such an agreement**
28 **with the United States prior to the initiation of construction.**

29 ~~(ed)~~ The United States, before initiation of construction of any Project Works, shall
30 notify the Commission in writing of any other agreements or conditions precedent that must be

met prior to the construction of those Project Works; Provided, however, that no such conditions precedent shall be imposed unless such conditions precedent are mandated or required by Federal laws, State law, or policy promulgated pursuant thereto.

PROJECT COORDINATING COMMITTEES

4. Coordination of Project construction, operations and distribution of Project Water from Project storage will be accomplished through a Project Construction Coordinating Committee and a separate Project Operations Committee.

(a) The Project Construction Coordinating Committee will provide coordination among all project sponsors during construction of the project.

(b) The Project Operations Committee will coordinate operations of the Project among all beneficiaries that receive project water.

~~4. (a) Coordination of Project construction, operations and distribution of Project Water will be accomplished through a Project Coordinating Committee. The Project Coordinating Committee will initially consist of the following representatives: from those entities that have entered into a repayment contract with the United States for the Animas-La Plata Project.~~

~~————— (1) five representatives from the San Juan Water Commission (New Mexico) or a representative from Aztec, Bloomfield, Farmington, San Juan County, and the Rural Water Users Association should the San Juan Water Commission be dissolved;~~

~~————— (2) five representatives from the Animas-La Plata Water Conservancy District (Colorado), at least two of whom are irrigators;~~

~~————— (3) five representatives from the Southern Ute Indian Tribe (Colorado);~~

~~————— (4) five representatives from the Ute Mountain Ute Tribe (Colorado);~~

~~————— (5) one representative from the La Plata Conservancy District (NM);~~

~~————— (6) one representative from the Navajo Indian Tribe (Shiprock, New Mexico); and~~

~~————— (7) one representative of the United States Bureau of Reclamation.~~

~~————— The membership of the committee may be revised under guidelines established in the by-laws approved by the Committee. —————~~

1 ~~_____ (b) The Project Coordinating Committee shall meet to unanimously establish~~
2 ~~by-laws immediately following execution of those repayment contracts considered as~~
3 ~~prerequisites to initiating irreversible construction on the Project. A unanimous decision will be~~
4 ~~made when twelve or more of the voting representatives or their alternates are present at a~~
5 ~~meeting noticed in writing 30 days in advance, and all present vote in agreement. The by-laws~~
6 ~~shall provide all necessary organizational details for the Project Coordinating Committee subject~~
7 ~~to the provisions in the entities' contracts with the United States. The by-laws shall also provide~~
8 ~~for subcommittees, for development and administration of any necessary operating agreements~~
9 ~~for specific Project Works, and for operation, maintenance, and replacement cost allocation for~~
10 ~~uses of Project Water.~~

11 ~~_____ (c) The Project Operator shall annually formulate a budget and a plan for major~~
12 ~~operation, maintenance, and replacement activities on the Project and submit such budget and~~
13 ~~operating plans to the Project Coordinating Committee. The Project Coordinating Committee~~
14 ~~shall meet as often as necessary, but not less than once annually, to assure and approve equitable~~
15 ~~allocations of operation, maintenance, and replacement costs; approve major operation,~~
16 ~~maintenance, and replacement activities; coordinate project operations among the users of~~
17 ~~Project Water; and comply with provisions of all existing and future water compacts, especially~~
18 ~~the Animas-La Plata Project Compact (82 Stat. 898), the Upper Colorado River Basin Compact~~
19 ~~(63 Stat. 31), and the Cost Sharing and Water Rights Agreements. Provided, that with respect to~~
20 ~~annual costs as are estimated for electrical power to pump water to Ridges Basin Reservoir, each~~
21 ~~contracting entity shall be required to pay no more than a proportionate share of the total~~
22 ~~electrical power costs that relate directly to the actual amount of water used by that particular~~
23 ~~entity from the reservoir for any given year. In addition, each contracting entity will pay a~~
24 ~~proportionate share of the electrical power costs associated with replenishing an estimated 2,500~~
25 ~~acre feet of reservoir storage water lost to evaporation each year. The electrical power costs~~
26 ~~associated with the evaporation water and all other operation, maintenance, and replacement~~
27 ~~costs assigned to the Durango Pumping Plant, Ridges Basin Inlet Conduit, and Ridges Basin~~
28 ~~Dam and Reservoir will be divided proportionately among all of the contracting entities based on~~
29 ~~their respective Project Water allotments.~~

1 MEASUREMENT AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

2 5. (a) Water delivered to the Commission pursuant to this contract shall ~~be on a~~
3 ~~perpetual basis and shall~~ be measured **and delivered** at the outlet works of Ridges Basin Dam
4 and in the Animas River at the Durango Pumping Plant with measuring facilities installed by the
5 United States as a part of the Project. Water delivered to the Contractor's Animas and San Juan
6 River users pursuant to this contract shall be measured at those user's points of diversion on the
7 Animas and San Juan Rivers. The water diverted from the San Juan River system will be
8 replaced with Project Water released or bypassed from the Durango Pumping Plant or Ridges
9 Basin Reservoir. Sufficient water will be delivered to ensure that the Commission annually
10 receives **a share of 20,800** ~~30,800~~ acre-feet of water available for diversion at any approved
11 points of diversion on the San Juan River system selected by potential users of this water.

12 (b) The United States will not be responsible for the control, carriage, handling,
13 use, disposal, or distribution of water furnished the Commission from the outlet works of Ridges
14 Basin Dam ~~or Durango Pumping Plant~~ to the place of final use. The Commission will hold the
15 United States harmless on account of damage or claim of damage of any nature whatsoever
16 arising out of or connected with the control, carriage, handling, treatment, use, disposal, or
17 distribution of water by the Commission below the points of measurement.

18 (c) All facilities required for taking water furnished under this contract from the
19 points of delivery and putting it to use by the Commission and its subcontractors will be
20 acquired, constructed or installed, and operated and maintained by the Commission or its
21 subcontractors at its sole expense.

22
23 ALLOTMENT AND USE OF PROJECT WATER

24 6. (a) The Commission shall have ~~an permanent~~ allocation to a share of the average
25 annual yield from Project Water sources based on an annual allotment of **20,800** ~~30,800~~ acre-feet
26 of municipal and industrial water delivered at the users' points of diversion, **except as otherwise**
27 **provided under Subarticle 7(e) herein. The Commission's diversion allotment of 20,800**
28 **acre-feet yields an average annual depletion amount of 10,400 acre-feet. The project**
29 **provides annual storage for 3,025 acre-feet of this water with the remainder of the project**
30 **water provided directly from the Animas River.** The water furnished shall be put to beneficial

1 use under permits required by the New Mexico State Statutes. ~~Municipal and industrial~~
2 ~~commitments shall be delivered in full and irrigation and other uses shall share shortages as may~~
3 ~~occur in equal percentages; Provided, however, The Commission may be limited, after~~
4 **consultation**, in any year to take no more than **55**~~48~~ percent of its total water allotment during
5 the period from June 1 to September 30. If this limitation occurs, the Commission may take the
6 remaining **45**~~52~~ percent of its water allotment during the remaining months of the year. The
7 above limitation amount of **55**~~48~~ percent may be adjusted as necessary by the Project **Operations**
8 **Coordinating** Committee, after **consultation** with the Commission.

9 (b) **The Commission's Unused**~~Excess~~ Project **Stored** Water in any year shall be
10 retained in Ridges Basin Reservoir to the extent of capacity available **up to 3,025 acre-feet**, and
11 shall be available for ~~general Project~~ **the Commission's** use during succeeding years. ~~No~~
12 ~~holdover rights in the Project reservoir for water not used in any year shall be granted to the~~
13 ~~Commission, any individual or subcontractor, including irrigation districts, associations, or~~
14 ~~municipalities.~~ The Commission shall have the opportunity to purchase excess Project **Storage**
15 ~~Water on similar terms and at a price no higher than that offered other similar~~ **from other** users.

16 (c) **As provided by Section 15 of Public Law 106-554, the Secretary shall assign**
17 **Interior's interest in New Mexico State Engineer Permit Number 2883, dated May 1, 1956,**
18 **in order to fulfill the New Mexico non-Navajo purposes of the Project, so long as the permit**
19 **assignment does not affect the application of the Endangered Species Act of 1973.**

20 (d) Any use of water other than that contemplated in the **July 2000** Final
21 **Supplemental** Environmental **Impact** Statement for the Animas-La Plata Project shall be subject
22 to compliance with the National Environmental Policy Act.

23
24 METHOD OF PAYMENT FOR PROJECT CONSTRUCTION COSTS
25 UP TO \$12,800,000 UNDER COST SHARING AGREEMENT
26

27 7. (a) ~~The Cost Sharing Agreement is attached as Exhibit "A" and hereby made a part~~
28 ~~of this contract. Pursuant to Article 3.(c) of the Cost Sharing Agreement, \$12,800,000 will be~~
29 ~~available from the Commission to the United States to fund the estimated cost of developing the~~
30 ~~New Mexico non-Indian municipal and industrial water share of Ridges Basin Dam, Durango~~
31 ~~Pumping Plant, Ridges Basin Inlet Conduit and related facilities as defined in Article 2(a) herein~~

1 needed to provide municipal and industrial water to non-Indians in New Mexico. Such funds
2 shall be provided according to a schedule of applicable actual costs related to construction of
3 these New Mexico municipal and industrial water facilities. **Refer to C/S Agreement ?**

4 **7. (a) As provided by Section 6(a)(3)(A) of Public Law 106-554, the Commission's**
5 **capital repayment obligations for the facilities described in paragraph (1)(A)(i) of that Law**
6 **may be satisfied upon the payment in full of the non-Tribal water capital obligations prior**
7 **to the initiation of construction. The Commission's allocable capital obligations are**
8 **estimated in the May 2001 Interim Cost Allocation to be \$6,916,722 and this estimate is**
9 **based on October 2001 price levels. However, it is recognized by both the Commission and**
10 **the United States that because of inflationary increases in the cost of construction, as**
11 **indicated by engineering cost indexes applicable to the type of construction involved, the**
12 **project costs may increase above the estimate over the construction period. To account for**
13 **these increases and meet the definition of up-front payment in full as specified in Section**
14 **6(a)(3)(A) of Public Law 106-554, the Commission and the United States agree to use an**
15 **estimate of the up-front payment based on the May 2001 Interim Cost Allocation amount**
16 **of \$6,916,722. At an estimated inflation rate of ____ percent, through a construction period**
17 **of 7 years, the base capital obligation of \$6,916,722 is estimated to grow to \$_____**
18 **at construction completion. The Commission agrees to pay this indexed amount of**
19 **\$_____ to an acceptable escrow account, to satisfy the up-front payment in full**
20 **requirement of Section 6(a)(3)(A) of Public Law 106-554.**

21 (b) Payments **from Escrow** will be made **to the United States** quarterly concurrent
22 with the construction of Ridges Basin Dam, Durango Pumping Plant, Ridges Basin Inlet Conduit
23 and related facilities for storing and delivering ~~New Mexico non-Indian~~ **the Commission's**
24 municipal and industrial water. The quarterly payments will be made in advance and due 10 days
25 prior to the beginning of ~~the~~ **each quarter that starts in January, April, July, and October of**
26 **each year.** However, payments may be advanced and due 5 days prior to the beginning of the
27 quarter if electronic transfer methods are utilized in accordance with Treasury regulations and
28 ~~Article 8(h).~~ The payment amounts will be based on the annual construction schedule prepared
29 by the United States and provided to the Commission.

30 **Need more details on Escrow Payments and Process**

1 (c) At the end of the construction period, a final cost allocation will be
2 performed by the Secretary pursuant to Section 6(a)(3)(B) of Public Law 106-554.
3 Modification, expansion or unforeseen engineering costs in addition to the current design
4 and plan for the storage and delivery of the 20,800 acre-feet of Project Water to the
5 Commission shall not be allocated to the Commission's share of the reimbursable
6 construction costs unless they are determined to be necessary by the Secretary after
7 Consultation. The United States shall give the Commission written notice of the
8 Commission's total capital obligations as established by the final cost allocation. In the
9 event the final cost allocation establishes that the total capital obligation of the Commission
10 is more than the up-front payment amount of \$_____, then the Commission will have
11 the option to pay the additional amount, with appropriate Interest During Construction
12 charges, ____ days from the date of written notice as an alternative to repaying this
13 additional debt with amortization interest over a repayment period as described in
14 Subarticle 7(d) below. In the event the final cost allocation establishes that the total capital
15 obligation of the Commission is less than the up-front payment amount of \$_____, then
16 the United States will refund the difference to the Commission within ____ days.

17 (d) After the ____-day final payment option established in Subarticle 7(c) has
18 expired, the construction costs that are in addition to the up-front payment amount of
19 \$_____, and the associated Interest During Construction, shall become a
20 "Repayment Obligation" of the Commission. The United States will assign this Repayment
21 Obligation to a pro rata share of the Commission's total project water supply of 20,800
22 acre-feet and will issue a repayment block notice, as described in Article 9 herein, to the
23 Commission prior to their receiving any of the pro rata supply assigned to the additional
24 repayment obligation. The Repayment Obligation on the assigned pro rata supply will be
25 paid in annual installments due on or before January 10 of each year and in accordance
26 with an annuity due payment schedule or schedules issued by the United States. The
27 Repayment Obligation above shall be repaid within a 25 year period, unless as specified
28 below and shall accrue interest on the unpaid portion at the rate to be established pursuant
29 to the provision of Section 5(f) of the Act of April 11, 1956 (70 Stat. 105) as amended by the
30 Act of June 27, 1960 (74 Stat. 255).

1 **The Commission may elect to defer the Repayment Obligation and use**
2 **of the assigned pro rata water supply pursuant to the provisions of the Water Supply Act**
3 **of 1958 (72 Stat. 297), as amended, and shall be as follows: (i) no principal or interest**
4 **payments need to be made with respect to storage of water for future water supply as**
5 **provided by the Water Supply Act until such supply is first used, but such deferment of**
6 **repayment shall not exceed 10 years; (ii) no interest shall be charged on such cost until such**
7 **supply is first used, but in no case shall the interest-free period exceed 10 years; and (iii)**
8 **once repayment is initiated, the sum of the interest and principal shall be paid in annual**
9 **installments over the remainder of the repayment period, however, the total repayment**
10 **period, including deferral, cannot exceed 50 years.**

11 **(e) If the Commission elects not to repay the Repayment Obligation described**
12 **in Subarticle 7(d) to the United States, then the Commission relinquishes use and**
13 **contractual right to the water supply assigned pro rata to the Repayment Obligation and**
14 **such supply will be available to the Secretary to be allocated to other purposes as provided**
15 **by Section 6(a)(3)(B) of Public Law 106-554. Continued on Page 16**

16
17 **METHOD OF REPAYMENT FOR PROJECT CONSTRUCTION**
18 **COSTS EXCEEDING \$12,800,000**

19 ~~8. (a) The Commission agrees to pay the United States allocable construction costs~~
20 ~~which exceed the \$12,800,000 paid pursuant to Article 7. This amount is the Commission's~~
21 ~~remaining proportionate share of the final reimbursable construction costs allocated to municipal~~
22 ~~and industrial uses associated with the construction of Project Works necessary for storage and~~
23 ~~delivery of water pursuant to this contract, plus interest pursuant to subarticle (c) herein. The~~
24 ~~Commission also agrees to pay any amounts justified by reasons of ordinary fluctuations in the~~
25 ~~cost of construction as indicated by engineering cost indexes applicable to the type of~~
26 ~~construction involved and increases resulting from enlargement or changes of Project Works.~~
27 ~~Modification, expansion, or change order costs shall not be allocated to the Commission's share~~
28 ~~of the reimbursable construction costs unless they are determined to be necessary by the~~
29 ~~Secretary after **Consultation**, in addition to the current design and plan for the Project, for the~~
30 ~~storage and delivery of the 30,800 acre feet of Project Water to the Commission.~~

31 ~~—————The United States may determine at any time that the construction costs relating to~~

1 Project Municipal and Industrial Water to be made available under this contract will exceed
2 \$12,800,000, and shall give the Commission written notice thereof. Such construction costs shall
3 become a Repayment Obligation of the Commission and is payable by the Commission in
4 advance of receiving Project Municipal and Industrial Water associated therewith in annual
5 installments due on or before January 10 of each year and in accordance with an annuity due
6 payment schedule or schedules issued by the United States. However, the Commission's total
7 obligation for all Project costs allocated to municipal and industrial water under this contract will
8 not exceed \$16,640,000 (\$12,800,000 plus 30 percent of \$12,800,000).

9 ~~————— (b) The Commission's total Repayment Obligation pursuant to this Article, if any,~~
10 ~~and any notice with respect thereto, is subject to adjustments depending on the facilities~~
11 ~~constructed and on the final allocation of construction costs and allotments of the Project Water~~
12 ~~to irrigation and municipal and industrial users which will be made by the Secretary in~~
13 ~~accordance with Reclamation Law.—~~

14 ~~————— (c) The Commission's Repayment Obligation, plus simple reimbursable interest~~
15 ~~accrued during construction, for that portion that exceeds \$12,800,000, allocated to municipal~~
16 ~~and industrial water as described in Subarticle (a) above shall accrue interest on the unpaid~~
17 ~~portion at the rate to be established pursuant to the provision of Section 5 (f) of the Act of April~~
18 ~~11, 1956 (70 Stat. 105) as amended by the Act of June 27, 1960 (74 Stat. 255).—~~

19 ~~————— (d) The municipal and industrial Repayment Obligation referred to in this Article is~~
20 ~~a general obligation of the Commission as outlined in Article 18 herein, however, regardless of~~
21 ~~the provisions stipulated by Article 18(b), the United States shall make available to the~~
22 ~~Commission Project Municipal and Industrial Water for entities which are not in arrears in their~~
23 ~~payments to the Commission when these payments are advanced to the United States. The~~
24 ~~Commission's municipal and industrial Repayment Obligation shall be paid to the United States~~
25 ~~in one of the following methods agreed to by both parties:—~~

26 ~~————— (1) The Repayment Obligation, if any, is repayable in advance of receiving~~
27 ~~Project Municipal and Industrial Water associated therewith by the Commission in not more than~~
28 ~~50 annual installments with interest, as described in Article 8(c) herein, due on or before January~~
29 ~~10 of each year and in accordance with the payment schedule or schedules included in the~~
30 ~~repayment notice issued by the United States for that portion that exceeds \$12,800,000, or~~

1 ~~————— (2) If the Commission elects to defer taking Project Municipal and~~
2 ~~Industrial Water when it first becomes available as provided in (1) above, repayment shall be~~
3 ~~governed by the provisions of the Water Supply Act of 1958 (72 Stat. 297) as amended, and shall~~
4 ~~be as follows: (i) no principal or interest payments need to be made with respect to storage of~~
5 ~~water for future water supply as provided by the Water Supply Act until such supply is first used,~~
6 ~~but such deferment of repayment shall not exceed 10 years; (ii) no interest shall be charged on~~
7 ~~such cost until such supply is first used, but in no case shall the interest-free period exceed 10~~
8 ~~years; and (iii) once repayment is initiated, the sum of the interest and principal shall be paid in~~
9 ~~annual installments over the remainder of the 50-year repayment period.~~

10 ~~————— Payment for each block shall commence on January 10 of the year water is~~
11 ~~first used, but such deferral shall not exceed a period of 10 years as provided above and payment~~
12 ~~shall be made each year after the 10th year of deferral, whether or not the Commission takes the~~
13 ~~water allocated for its use. All Project Municipal and Industrial Water made available by the~~
14 ~~United States shall be included in block notices with their accompanying payment schedule. The~~
15 ~~payment schedule shall specify, among other things, the annual amount that the Commission is to~~
16 ~~collect and pay to the United States for Project Municipal and Industrial Water.~~

17 ~~————— (e) The United States may also determine at any time that the construction costs~~
18 ~~relating to Project Municipal and Industrial Water to be made available under this contract will~~
19 ~~exceed \$16,640,000, and shall give the Commission written notice thereof. The United States~~
20 ~~will then **consult** with the Commission, and continuation of construction of Project Works~~
21 ~~related to Project Municipal and Industrial Water may be contingent upon execution of an~~
22 ~~amendatory repayment contract or other financial arrangement to cover any increased obligation~~
23 ~~above \$16,640,000. Such "other financial arrangement" includes, but is not limited to, the~~
24 ~~Commission's right to receive a pro-rata share of the 30,800 acre-feet of Project Municipal and~~
25 ~~Industrial Water based on the amount of funds the Commission has committed to pay through~~
26 ~~cost sharing and repayment versus the final total construction costs allocated to the 30,800~~
27 ~~acre-feet of Project Water. In the event that agreement is not reached within 240 days from the~~
28 ~~sending of said notice, the United States may cease construction of Project Works related to~~
29 ~~Project Municipal and Industrial Water, and the Commission shall be responsible for the~~
30 ~~Repayment Obligation only. Provided, however that termination of the aforesaid construction~~

1 ~~may be delayed by extending said 240 day period an additional 120 days if the Commission and~~
2 ~~the United States determine that reasonable cause exists. Such repayment shall be described in a~~
3 ~~bill of collection and payment schedule issued by the United States.~~ **Article 7 Continued**

4 (f) It is agreed that during construction every attempt will be made to keep
5 administrative costs at or below 25 percent of the final construction cost of the total Project.
6 Once construction begins, the United States will annually report to the Commission the dollar
7 amount of administrative costs and all other construction costs.

8 (g) Upon request, the United States will annually **consult** with the Commission
9 concerning the allocation of ~~Phase One~~ construction costs and any interest during construction to
10 be payable by the Commission under this contract. **The Use of Facilities Procedure is the**
11 **methodology used to allocate costs for the Project, and once this Procedure is established**
12 **for the Project, it will not be changed for the administration of this Contract.** ~~The United~~
13 ~~States will also consult with the Commission in advance concerning any future changes to the~~
14 ~~cost allocation procedures used to determine the Commission's Project costs under this contract.~~

15 (h) All payments required under this contract are due on the specified due date and
16 by the method mutually agreed upon between the United States and the Commission. The agreed
17 method of payment ~~may include checks,~~ **will be made by electronic fund** ~~wire transfers, or~~
18 ~~other types of payment to be determined~~ **unless otherwise specified by the United States..**

20 METHOD FOR ESTABLISHING BLOCKS FOR PROJECT REPAYMENT

21 **89.** (a) When the Project Works defined in Article 2(a) are completed, tested, and the
22 Project Water becomes available for use by the Commission, the United States shall, after
23 **consultation**, establish delivery blocks and apportion to each block an appropriate part of the
24 Commission's allocated cost based on the nature and amount of water use therein. The United
25 States shall give the Commission written notice, referred to herein as the "block notice," at least
26 12 months prior to the date when water will be first delivered to the affected block. The block
27 notice shall contain:

28 (1) A description of the entities included in the block.

29 (2) The quantity of Project Water available to the Commission for the
30 block.

1 (3) A designation of that part of the Commission's municipal and industrial
2 cost allocation apportioned to the block, pursuant to Articles 7 and 8 herein.

3 (4) A payment schedule for repayment of those costs which exceed the
4 Commission's up-front funding, if any, for the municipal and industrial water available in such
5 block, including a breakdown of the amount and due date of each payment to be paid from
6 revenues received by the Commission from municipal and industrial water users and from all
7 other revenues available to the Commission.

8 (b) Each block notice and amendment thereto shall become a part of this contract.
9

10 PAYMENT OF OPERATION, MAINTENANCE, AND REPLACEMENT COSTS

11 ~~910.~~ (a) Operation, maintenance, and replacement costs allocated to the Commission's
12 municipal and industrial water will be a proportionate share of the total annual operation,
13 maintenance, and replacement expenses actually incurred by the Project Operator in the
14 operation, maintenance, and replacement of Ridges Basin Dam and Reservoir, Durango Pumping
15 Plant, Ridges Basin Inlet Conduit **based on the annual amount of water supply storage**
16 **provided to the Commission.** ~~and related storage and delivery facilities for New Mexico~~
17 ~~municipal and industrial water.~~ The Commission's Project Water allotment of ~~30,800~~ **20,800**
18 acre feet represents ~~17.9~~ percent of the total Project Water supply made available under ~~Phase~~
19 ~~One~~ of the Project. Based on an operations study prepared for the Project, the Commission
20 would draw an average of approximately ~~800~~ acre feet of their Project Water allotment from
21 storage in Ridges Basin Reservoir. The Commission's proportionate share of the annual
22 operation, maintenance and replacement costs, using a ~~1987~~ **2001** estimate of such costs for the
23 Durango Pumping Plant, Ridges Basin Inlet Conduit, and Ridges Basin Dam and Reservoir, **and**
24 **appurtenant facilities,** and the prescribed allocation of annual costs as presented in Article 4(c)
25 herein, would be ~~\$50,645~~ **\$59,554**. This figure includes ~~\$5,880~~ for direct pumping costs and
26 ~~\$53,674~~ for all other costs. It is expressly understood that these figures are an estimate only, and
27 are subject to changes from year-to-year resulting from fluctuations in the costs that make up the
28 estimate and the actual amount of Project Water drawn from Ridges Basin Reservoir by the
29 Commission.
30

1 (b) The Commission agrees to pay the Project Operator, in advance its proportionate
2 share of the operation, maintenance, and replacement costs allocated to said Project Works.
3 Operation, maintenance, and replacements costs shall be allocated by the Project ~~Coordinating~~
4 **Operations** Committee pursuant to Article 4. An operation, maintenance, and replacement
5 charge notice shall be furnished annually by the Project Operator, which amount will be paid by
6 the Commission in advance. If the funds advanced by the Commission under this article are less
7 than the actual cost of operation, maintenance, and replacement properly chargeable
8 to the Commission for the period advanced, a supplemental notice will be issued and the
9 Commission shall advance such additional funds by the date specified in the supplemental notice.
10 If the actual costs are less than the funds advanced, an appropriate adjustment will be made in the
11 notice issued the next succeeding period.

12
13 DISPOSAL OF PROJECT WATER DURING CONSTRUCTION
14 BY UNITED STATES
15

16 ~~104.~~ (a) Prior to the completion of the Project Works as defined in Article 2(a) and
17 upon the execution of this contract, the Commission may use the water identified herein upon
18 approval by and subject to any applicable terms and conditions imposed ~~under rules and~~
19 ~~regulations~~ by the New Mexico State Engineer and the United States. The United States has no
20 objection to such use of the water until such water is necessary for Project purposes. No other
21 approvals shall be required. Acceptance of water by the Commission under this subarticle shall
22 in no way trigger an obligation to pay for Project Works under construction pursuant to Article 8.

23 (b) Upon completion and initial testing of the Project Works as defined in Article
24 2(a), and at any other subsequent time, Project municipal and industrial water which is not made
25 available to the Commission as provided in Articles 6 and 9 herein or under provisions of
26 Subarticle (a) above, may be disposed of by the United States at terms and charges fixed by the
27 United States. The charges shall be sufficient to at least cover the operation, maintenance, and
28 replacement costs appropriate for such water delivery. Payment for use of such water shall be in
29 advance and the proceeds shall be applied to operation and maintenance expense and other
30 appropriate accounts as determined by the United States, and shall accrue to the benefit of the
31

1 United States. The Commission shall, however, have the first opportunity to purchase said
2 Project Water at the price and terms offered.

3 4 WATER SHORTAGES, WASTE, SEEPAGE, AND RETURN FLOWS

5 ~~112. On account of drought or uncontrollable forces, there may occur in any year a~~
6 ~~shortage in the total annual quantity of water available for furnishing to the Contractor by the~~
7 ~~United States pursuant to this contract. In no event shall any liability accrue against the United~~
8 ~~States or any of its officers, agents, employees, or its assigns for any damage, direct or indirect,~~
9 ~~arising from such shortages.~~ **There may occur at times during any year a shortage in the**
10 **quantity of water available for furnishing to the Commission through and by means of the**
11 **Project, but in no event shall any liability accrue against the United States or any of its**
12 **officers, agents, or employees for any damage, direct or indirect, arising from a shortage,**
13 **on account of errors in operation, drought, or any other causes. In any year in which there**
14 **may occur a shortage from any cause, the United States reserves the right to apportion the**
15 **available water supply among the Commission, Tribes, and others entitled to receive water**
16 **from the Project in accordance with conclusive determinations of the Contracting Officer.**

17 18 LEVY OF ASSESSMENTS, TOLLS AND CHARGES

19 ~~123.~~ The Commission shall, to the extent allowed by law, cause to be levied and
20 collected all necessary assessments, tolls, and other charges and will use all of the authority and
21 resources of the Commission to meet the obligations of the Commission specified herein, to
22 make in full all payments to be made pursuant to this contract on or before the date such
23 payments become due, and to meet its other obligations under this contract.

24 25 COVENANT AGAINST CONTINGENT FEES

26 ~~134.~~ The Commission warrants that it has not employed or retained any person or
27 selling agency to solicit or secure this contract upon an agreement or understanding for a
28 commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona
29 fide established commercial or selling agencies maintained by the Commission for the purpose of
30 securing business. For breach or violation of this warranty, the United States shall have the right

1 to annul this contract without liability, or at its discretion, to add to the repayment obligation or
2 consideration the full amount of such commission, percentage, brokerage, or contingent fee.

3
4 ASSIGNMENT LIMITED-SUCCESSORS AND ASSIGNS OBLIGATED

5 **145.** (a) The provisions of this contract shall apply to and bind the successors and
6 assigns of the parties hereto, but no assignment or transfer of this contract or any right or interest
7 therein shall be valid until approved in writing by the United States. No contract made by the
8 Commission, the Cities, or the non profit rural water associations relating to the delivery or
9 distribution of Project Water shall be valid until approved by the Regional Director of the Bureau
10 of Reclamation. Approval pursuant to this section shall be for the purpose of ensuring that any
11 assignment, transfer or other contract complies with the terms of this contract. Approval shall
12 not unreasonably be withheld.

13 (b) The Commission shall not receive any valuable consideration for such
14 assignment in excess of previous payments by the Commission to the United States for water
15 which had not been used and which is assigned to the assignee. The Commission shall not
16 extract any brokerage, profits, commission or fee, from any person on the assignment of water to
17 be delivered under this contract. In connection with any such assignment, the Chairman of the
18 Commission shall certify to the United States that the assignment with respect to water delivery
19 was without consideration except as provided above, and that no brokerage, profits, commission,
20 fee, or other charge of any kind was charged to the assignee or any person acting on behalf of the
21 assignee. Any exceptions to this article will be covered under a separate agreement.

22
23 SEVERABILITY

24 **156.** (a) If any provisions of Articles **16** through ~~30~~**28** are in conflict with Article 1
25 through **156**, then the provisions of Article 1 through **156** shall take precedence.

26 (b) If any provisions of the contract shall, for any reason be determined to be illegal
27 or unenforceable, the parties, nevertheless, intend that the remainder of the contract shall remain
28 in full force and effect. Furthermore, any adjustments or variations to this contract necessitated
29 by future negotiations with other water users can be accomplished by amending this contract.

1 IN THE FOLLOWING ARTICLES THE COMMISSION SHALL BE KNOWN AS THE
2 CONTRACTOR AND THE UNITED STATES AS THE CONTRACTING OFFICER.
3

4 5 CHARGES FOR DELINQUENT PAYMENTS 6

7 167. (a) The Contractor shall be subject to interest, administrative and penalty charges
8 on delinquent installments or payments. When a payment is not received by the due date, the
9 Contractor shall pay an interest charge for each day the payment is delinquent beyond the due
10 date. When a payment becomes 60 days delinquent, the Contractor shall pay an administrative
11 charge to cover additional costs of billing and processing the delinquent payment. When a
12 payment is delinquent 90 days or more, the Contractor shall pay an additional penalty charge of 6
13 percent per year for each day the payment is delinquent beyond the due date. Further, the
14 Contractor shall pay any fees incurred for debt collection services associated with a delinquent
15 payment.

16 (b) The interest charge rate shall be the greater of the rate prescribed quarterly in
17 the Federal Register by the Department of the Treasury for application to overdue payments, or
18 the interest rate of 0.5 percent per month prescribed by section 6 of the Reclamation Project Act
19 of 1939 (Public Law 76-260). The interest charge rate shall be determined as of the due date and
20 remain fixed for the duration of the delinquent period.

21 (c) When a partial payment on a delinquent account is received, the amount
22 received shall be applied, first to the penalty, second to the administrative charges, third to the
23 accrued interest, and finally to the overdue payment.
24

25 GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT 26

27 178. (a) The obligation of the Contractor to pay the United States as provided in this
28 contract is a general obligation of the Contractor notwithstanding the manner in which the
29 obligation may be distributed among the Contractor's water users and notwithstanding the default
30 of individual water users in their obligations to the Contractor.
31

32 (b) The payment of charges becoming due hereunder is a condition precedent to
33 receiving benefits under this contract. The United States shall not make water available to the
34 Contractor through project facilities during any period in which the Contractor may be in arrears
35 in the advance payment of any operation and maintenance charges due the United States or in
36 arrears for more than 12 months in the payment of any construction charges due the United
37 States. The Contractor shall not furnish water made available pursuant to this contract for parties
38 which are in arrears in the advance payment of operation and maintenance charges or in arrears
39 more than 12 months in the payment of construction charges as levied or established by the
40 Contractor.
41

42 CONFIRMATION OF CONTRACT 43

44 ~~19. The Contractor, after the execution of this contract, shall promptly seek to secure a~~
45 ~~decree of a court of competent jurisdiction of the State of New Mexico confirming the execution~~
46 ~~of this contract. The Contractor shall furnish the United States a certified copy of the final~~
47 ~~decree, the validation proceedings, and all pertinent supporting records of the court approving~~
48 ~~and confirming this contract, and decreeing and adjudging it to be lawful, valid, and binding to~~
49 ~~the Contractor. This contract shall not be binding on the United States until such final decree has~~
50 ~~been secured.~~
51

1 NOTICES

2
3 **18**~~20~~. Any notice, demand, or request authorized or required by this contract shall be
4 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or
5 delivered to the Regional Director, Upper Colorado Region, Bureau of Reclamation, **125 South**
6 **State Street, Room 6107**, ~~P. O. Box 11568~~, Salt Lake City, Utah 841**38-1102**, and on behalf of
7 the United States, when mailed, postage prepaid, or delivered to the San Juan Water
8 Commission, **800 Municipal Drive, Farmington**~~112 S. Mesa Verde, Aztec~~, New Mexico
9 **87401**. The designation of the addressee or the address may be changed by notice given in the
10 same manner as provided in this article for other notices.
11

12 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

13
14 **19**~~21~~. The expenditure or advance of any money or the performance of any obligation
15 of the United States under this contract shall be contingent upon appropriation or allotment of
16 funds. Absence of appropriation or allotment of funds shall not relieve the Contractor from any
17 obligations under this contract. No liability shall accrue to the United States in case funds are not
18 appropriated or allotted.
19

20 OFFICIALS NOT TO BENEFIT

21
22 **20**~~22~~. No Member of or Delegate to Congress, Resident Commissioner or official of the
23 Contractor shall benefit from this contract other than as a water user or landowner in the same
24 manner as other water users or landowners.
25

26 CHANGES IN CONTRACTOR'S ORGANIZATION

27
28 **21**~~23~~. While this contract is in effect, no change may be made in the Contractor's
29 organization, dissolution, consolidation, merger or otherwise, except upon the Contracting
30 Officer's written consent.
31

32 BOOKS, RECORDS AND REPORTS

33
34 **22**~~24~~. The Contractor shall establish and maintain accounts and other books and records
35 pertaining to administration of the terms and conditions of this contract, including: the
36 Contractor's financial transactions, water supply data, water-use data; and other matters that the
37 Contracting Officer may require. Reports thereon shall be furnished to the Contracting Officer in
38 such form and on such date or dates as the Contracting Officer may require. Subject to
39 applicable Federal laws and regulations, each party to this contract shall have the right during
40 office hours to examine and make copies of the other party's books and records relating to
41 matters covered by this contract.
42

43 RULES, REGULATIONS, AND DETERMINATIONS

44
45 **23**~~25~~. (a) The parties agree that the delivery of water or the use of Federal facilities
46 pursuant to this contract is subject to Reclamation law, as amended and supplemented, and the
47 rules and regulations promulgated by the Secretary of the Interior under Reclamation law.
48 (b) The Contracting Officer shall have the right to make determinations necessary
49 to administer this contract that are consistent with the expressed and implied provisions of this
50 contract, the laws of the United States and the State, and the rules and regulations promulgated
51 by the Secretary of the Interior. Such determinations shall be made in **consultation** with the
52 Contractor.

1 QUALITY OF WATER

2
3 **24**26. The operation and maintenance of project facilities shall be performed in such
4 manner as is practicable to maintain the quality of raw water made available through such
5 facilities at the highest level reasonably attainable, as determined by the Contracting Officer.
6 The United States does not warrant the quality of water and is under no obligation to construct or
7 furnish water treatment facilities to maintain or better the quality of water.
8

9 WATER AND AIR POLLUTION CONTROL

10
11 **25**27. The Contractor, in carrying out this contract, shall comply with all applicable
12 water and air pollution laws and regulations of the United States and the State of New Mexico,
13 and shall obtain all required permits or licenses from the appropriate Federal, State, or local
14 authorities.
15

16 WATER CONSERVATION

17
18 **26**28. Prior to the delivery of water provided from or conveyed through Federally
19 constructed or Federally financed facilities pursuant to this contract, the Contractor shall develop
20 an effective water conservation program acceptable to the Contracting Officer. The water
21 conservation program shall contain definite water conservation objectives, appropriate
22 economically feasible water conservation measures, and time schedules for meeting those
23 objectives. At subsequent 3-year intervals, the Contractor shall submit a report on the results of
24 the program to the Contracting Officer for review. Based upon the conclusions of the review, the
25 Contracting Officer and the Contractor shall **consult** and agree to continue or to revise the
26 existing water conservation program.
27

28 EQUAL OPPORTUNITY

29
30 **27**29. During the performance of this contract, the Contractor agrees as follows:
31 (a) The Contractor will not discriminate against any employee or applicant for
32 employment because of race, color, religion, sex, or national origin. The Contractor will take
33 affirmative action to ensure that applicants are employed, and that employees are treated during
34 employment, without regard to their race, color, religion, sex, or national origin. Such action
35 shall include, but not be limited to, the following: Employment, upgrading, demotion, or
36 transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms
37 of compensation; and selection for training, including apprenticeship. The Contractor agrees to
38 post in conspicuous places, available to employees and applicants for employment, notices to be
39 provided by the Contracting Officer setting forth the provisions of this nondiscrimination clause.
40 (b) The Contractor will, in all solicitations or advertisements for employees placed
41 by or on behalf of the Contractor, state that all qualified applicants will receive consideration for
42 employment without discrimination because of race, color, religion, sex, or national origin.
43 (c) The Contractor will send to each labor union or representative of workers with
44 which it has a collective bargaining agreement or other contract or understanding, a notice, to be
45 provided by the Contracting Officer, advising the said labor union or workers' representative of
46 the Contractor's commitments under Section 202 of Executive Order 11246 of September 24,
47 1965, and shall post copies of the notice in conspicuous places available to employees and
48 applicants for employment.
49 (d) The Contractor will comply with all provisions of Executive Order No. 11246
50 of September 24, 1965, as amended, and of the rules, regulations, and relevant orders of the
51 Secretary of Labor.

1 (e) The Contractor will furnish all information and reports required by said
2 amended Executive Order and by the rules, regulations, and orders of the Secretary of Labor, or
3 pursuant thereto, and will permit access to its books, records, and accounts by the Contracting
4 Officer and the Secretary of Labor for purposes of investigation to ascertain compliance with
5 such rules, regulations, and orders.

6 (f) In the event of the Contractor's noncompliance with the nondiscrimination
7 clauses of this contract or with any of the such rules, regulations, or orders, this contract may be
8 canceled, terminated, or suspended, in whole or in part, and the Contractor may be declared
9 ineligible for further Government contracts in accordance with procedures authorized in said
10 amended Executive Order, and such other sanctions may be imposed and remedies invoked as
11 provided in said Executive Order, or by rule, regulation, or order of the Secretary of Labor, or as
12 otherwise provided by law.

13 (g) The Contractor will include the provisions of paragraphs (a) through (g) in
14 every subcontract or purchase order unless exempted by the rules, regulations, or orders of the
15 Secretary of Labor issued pursuant to Section 204 of said amended Executive Order, so that such
16 provisions will be binding upon each subcontractor or vendor. The Contractor will take such
17 action with respect to any subcontract or purchase order as may be directed by the Secretary of
18 Labor as a means of enforcing such provisions, including sanctions for noncompliance:
19 Provided, however, That in the event the Contractor becomes involved in, or is threatened with,
20 litigation with a subcontractor or vendor as a result of such direction, the Contractor may request
21 the United States to enter into such litigation to protect the interests of the United States.

22 23 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

24
25 **2830.** (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964
26 (42 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (P.L. 93-112, as amended), the
27 Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.) and any other applicable civil rights
28 laws, as well as with their respective implementing regulations and guidelines imposed by the U.
29 S. Department of the Interior and/or Bureau of Reclamation.

30 (b) These statutes require that no person in the United States shall, on the grounds
31 of race, color, national origin, handicap, or age, be excluded from participation in, be denied the
32 benefits of, or be otherwise subjected to discrimination under any program or activity receiving
33 financial assistance from the Bureau of Reclamation. By executing this contract, the Contractor
34 agrees to immediately take any measures necessary to implement this obligation, including
35 permitting officials of the United States to inspect premises, programs and documents.

36 (c) The Contractor makes this agreement in consideration of and for the purpose of
37 obtaining any and all Federal grants, loans, contracts, property discounts or other Federal
38 financial assistance extended after the date hereof to the Contractor by the Bureau of
39 Reclamation, including installment payments after such date on account of arrangements for
40 Federal financial assistance which were approved before such date. The Contractor recognizes
41 and agrees that such Federal assistance will be extended in reliance on the representations and
42 agreements made in this article, and that the United States reserves the right to seek judicial
43 enforcement thereof.

44
45
46
47 **Check for other required Standard Articles**
48
49
50
51

IN WITNESS WHEREOF, the parties hereto have caused this contract to be duly executed as of the day and year first above written.

Approved

THE UNITED STATES OF AMERICA

Regional Solicitor's Office

By _____
Regional Director
Upper Colorado Region
Bureau of Reclamation

ATTEST:

SAN JUAN WATER COMMISSION, NEW MEXICO

By _____
~~Chairman~~ **Representative**
 San Juan Water Commission

~~IN CONCURRENCE:~~

~~ANIMAS-LA PLATA WATER
CONSERVANCY DISTRICT~~

By _____
President

List of Attachments: Exhibit A - Cost Sharing Agreement, **as amended - ?**